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April 16, 2014

State of Hawaii
Department of Health
Dr. Linda Rosen, MD
Director Dept of Health
1250 Punchbowl St.
Honolulu, Hawaii 96813

RE: Dept of Health Approval of Construction on Contaminated Land for the Military Families

Dear Dr. Rosen,

On March 5, 2014 a formal complaint was sent to the State of Hawaii Deputy Director for Environmental Health, Gary Gill. A written response from Fenix Grange, Supervisor of the Site Discovery, Assessment and Remediation Section was received via email on March 31, 2014. As with previous complaints submitted to the Hawaii Dept of Health (HDOH) the response was non-responsive and extremely disturbing. The public trusts that the HDOH would meet their responsibilities to protect members of the public. The response from the HDOH regarding the health of the military families gives sufficient cause to distrust the HDOH in protecting them. We request that the HDOH conduct an investigation with members of the public to determine the cause(s) of the violation of the public's trust; to identify actions to address the environmental and health issues; and to identify corrective actions to prevent future health and environmental problems.

The complaint identified allegations made by the private sector that the State of Hawaii Dept of Health (HDOH) "approved" the use of contaminated soil conditions for residential housing for military families. The complaint further identified actions that were required to prevent this practice for residential housing projects and to initiate action for the exposures of hazardous substances. The HDOH was further notified that the exposure to these contaminated soils during the demolition and construction of the military family homes resulted in unexplained illnesses to the military members, children, infants and pets. Prenatal exposures also occurred because of insufficient notifications to these families that their environmental conditions were above recognized safe levels.

The actions taken by the HDOH to approve a Pesticide Soil Management Plan at Marine Corps Base Hawaii (MCBH) appears to be implemented and used by the private sector to alleviate them from any responsibility or liability for unexplained illnesses or other health related issues. The HDOH's approval of this plan is representation, by the private sector, that they were permitted to use contaminated soils in and around the residential housing at Marine Corps Base Hawaii (MCBH) and other military family housing projects. These conditions exist around the present military housing units and the families were not adequately informed of the exposures. Numerous unexplained illnesses to the military family members, infants, children and their pets as well as prenatal exposures continued without adequate protections, information and notification.

The health issue is a basic and simple one that is often confused and complicated with scientific jargon and obscure language. The reality is that the HDOH and the private sector contractor engaged in developing a document for the use of contaminated soils in and around the residential units rather than construction of homes on clean soils. The perception that the conditions are what they are and they are safe (because the HDOH said so) and military families now have to prove that their illnesses were caused by the contaminated environment relieves the HDOH and the contractor of the responsibility and liability. Reversing the responsibility to the military families for the initial unsafe actions of constructing homes on contaminated soils is irreprehensible.

As a result of the manipulations, and misinterpretations of various documents, references, and guides the residential units were constructed on contaminated land. The military families are given a short misleading statement regarding the presence of the contaminated soils. In the last 7 years, and perhaps prior, military families were living in and around residential units where the release of hazardous substances and the existence of contaminated soils were present. Unexplained illness and prenatal exposures were experienced and continue today.

The March 31, 2014 response from the HDOH is extremely disturbing because of the lack of concern and the improprieties of their involvement. A few of these concerns with the HDOH response is provided:

- The HDOH referenced Hawaii Administrative Rule 451-10 for their authority to engage in the approval of the contaminated soils conditions around the residential housing. This authority is applicable for the conditions involving the release of hazardous substances.¹ The acknowledgement by the HDOH of the release of hazardous substances prior to demolition and construction of the military family housing is noted and we agree that there was a release. The 2007 HDOH approval of the OMC's Pesticide Soils Management Plan is repeatedly

¹ Hawaii Revised Statute 128D-7(c)

noted and publicized by the private contractor to indicate the HDOH acceptance of these conditions. There is no dispute that the HDOH approved a plan that the contractor(s) would use to build military family housing on contaminated lands. There are no logical reasons for approval of the elevated levels of hazardous substances resulting in exposures to the military families, children, infants, and prenatal exposures. The HDOH liabilities associated with the approval of this plan is not acceptable.

- The HDOH acknowledges receipt of inquiries from myself and community members of MCBH and sent requests for soil sampling data as well as information on OMC's (Ohana Military Communities) implementation of the approved plan. At least 7 years have passed and only now will the HDOH take actions to ensure effective implementation of the plan? We will provide additional information regarding the soil sampling data when and if it is provided.
- The HDOH alleges that the approved plan provides actions that are protective of the most sensitive members of the population, i.e., infants and children when an effective implemented management plan for pesticide-impacted soils exists. Yet, they have not monitored, enforced or provided oversight to ensure these protective actions are effectively implemented. The HDOH readily admits, *"To date, HDOH has not conducted intensive oversight of OMC's activities. As a result, we do not currently have detailed information on OMC's PI soil management practices. We have requested that OMC provide us with more detailed information on their PI soil management activities so that we can better evaluate their performance."*
- Of particular concern is the HDOH discussion of prenatal, infant and children exposures. The HDOH environmental action levels (EALs) did not address prenatal, infant and child exposures because the pesticides are not mutagens. Yet the exposures to the same population for cancer and non-cancer related illnesses are not adequately addressed, monitored, or studied. There are enough scientific studies regarding the exposures of hazardous substances to infants and children, regardless of mutagenic effects. The incomplete and casual disregard for the consequence of these exposures is a concern.
- The HDOH "alternative EALs" allows an increased risk to cancer and again this increase fails to adequately address prenatal and infant and children risks. Additionally, the non-cancer hazard assessment focus on a 6 year exposure period rather than a lifetime exposure period to allow the increased levels in the contaminated soils. The HDOH has yet to provide the studies and documentation to support the evidence that prenatal exposures and exposures at MCBH to infants and children are only effective for 6 years or that these exposures will not result in health effects. We also note that the use of 6 years may be consistent with the tour of duty for some of the military families. The perception that exposure to the military families for 6 years will result in minimal effects and that they are transient appears to be an acceptable justification to the

HDOH for the contaminated residential housing. Alternative EALs for residential housing should not be permitted unless an acceptable human health risk assessment and an ecological assessment adequately address the effects of exposure. All populations must be considered, i.e., prenatal, infants, and children. The HDOH approve a plan that did not adequately assess these factors in a manner that is protective of human health.

- Pet illnesses and deaths are not addressed but a reference to the “ecological toxicity” statement in the EAL development shown in the plan is the response from the HDOH. It is disturbing that the HDOH does not recognize that the high frequency of pet illnesses and deaths can be a strong indicator of exposure related illnesses to humans. It should be noted that the illnesses and deaths to these pets include, tumors, convulsions, kidney failure, liver disorders, cancers and other similar illnesses. Our pets can provide information related to acute as well as chronic exposures. The HDOH chooses to ignore these indicators. This indicator must be addressed in the human health risk assessment.
- The HDOH identified a “site by site” basis for the establishment of EALs for various military housing projects. Through social media we are aware that the military families at MCBH are not knowledgeable or aware of the contaminated soils conditions and it is highly unlikely that the other military families on other projects are aware of these conditions. We note that the management plans do not specifically address adequate notification, awareness and education of the military families who are affected. The plan does not have any acceptable performance measures or indicators to ensure effective implementation to protect these families.
- Monitoring, health studies and evaluations are ignored by the HDOH because they simply did not provide oversight, or because additional toxicity information since 2006 is needed to adjust these alternative EALs, or the HDOH does not believe “...that the extensive commitment of time and resources required for a formal health study would be justified.” The numerous unexplained illnesses experienced by the military families would not justify at least a study?
- The HDOH response states that they have not received complaints from the military families, yet we know that many have filed complaints. The HDOH reliance on “complaints” from the military families as a trigger to evaluate the plan that authorized elevated levels of hazardous substances in and around the residential housing is unforgiveable. **Waiting for illnesses to occur or for complaints to be received is not a preventive and protective methodology. It is an after the fact component that results in needless suffering and stress.** The basis described by the HDOH for allowing the construction of residential units on contaminated land in the first place is stated in the response. *“HDOH has set the alternative EALs for military family housing (MFH) sites to be protective of the most-sensitive members of the population (children and infants) when used with an effectively implemented management plan for pesticide-*

impacted soils ("PI soils"). These alternative EALs are protective of both cancer and noncancer health risks."

The HDOH has approved the allowance for the private contractors to use contaminated soils in and around military family housing projects at MCBH and others. The management plan does not adequately and completely address the human health risk assessments. The management plan used to document this approval is not monitored or enforced to ensure any of the cursory protective measures are adequately implemented. The military families are not notified and educated on the hazards associated with living on contaminated lands. These plans are not effective and not measured or enforced.

We were also informed that the failure to comply with a similar management plan at the Hickam military family housing a few years ago has still not been adequately addressed. The military families experience numerous unexplained illnesses including their pets. The contaminated soils were spread throughout the neighborhoods and the corrective actions have been lagging. Contaminated stockpiles of soils cannot and have not been accounted for which begs the question, where is this soil? In the meantime military families are exposed to hazardous substances without their knowledge. Actions to effectively implement the plan that is supposed to ensure protective measures have failed and continue to fail.

The medical community in the State has not been notified of these conditions which would be beneficial in their diagnosis and treatment of the infants and children as well as the pets. Further prenatal exposures are not adequately addressed by anyone. Regardless of the reasons or the rationale for these conditions it is a reality that they exist. Notifying and educating the medical community and healthcare providers is essential for the proper diagnosis, testing and treatments needed. As it is now the patients, i.e., military family members, must inform and somehow educate the medical providers of the exposures. Placing the families in this position is inexcusable.

The military families are in the dark and do not know what is happening to them and the HDOH has failed to protect them. The HDOH approval to allow the construction of housing that is not safe is inappropriate. The changes to the environmental action levels established by the Environmental Protection Agency (EPA), which are based on no adverse health effects, were altered by the HDOH. The alternate EALs approved by the HDOH to allow the private contractors to construct homes on contaminated land did not adequately address the health effects of such actions. The only acceptable criteria for human health risk for residential housing must include prenatal, infant and children exposures and this must be include "no adverse health effects".

Executive Order 13045 -- Protection of Children from Environmental Health Risks and Safety Risks -- was issued in 1997. This Executive Order directs that all federal agencies, including EPA, shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and shall ensure that their policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.²

The most essential and basic elements regarding exposure of hazardous substances to human health are the pathways of exposure. The many documents, allegations, claims, and information that have been provided fail to address these very basic elements. Information regarding the diluted soil samples is not enough to evaluate the actual exposure to humans. The airborne dust that the residents inhale, or the dust that settles in and around the homes can lead to ingestion over time, dust and debris can cause skin absorption paths. These are all pathways to exposure to humans that are not addressed. How much are people inhaling, ingesting and absorbing are the basis questions of human health that should start the assessment. The HDOH or anyone else has not provided any data or information that relates to the human health exposures. Our only measure at this point is the unexplained illnesses.

The military families deserve the right to know what they are exposed to and the HDOH must ensure that real testing and real data is provided to ensure the protective measures are in fact protective. The HDOH cannot rely on soil sampling as data to measure the protective measures. Notification and communications with the medical communities is critical because exposures to contaminated soils are not a norm for the healthcare providers. We provided recommended corrective actions in the original complaint which the HDOH did not take seriously. We provide them again for your information and action:

The DOH must take immediate actions to mitigate these deplorable conditions and to strictly enforce and monitor actions to ensure our military families are protected:

- 1. An epidemiological survey or study or both of all past and present military family housing residents should be initiated as soon as possible to identify, classify and evaluate the illnesses and disorders experienced. We must learn from our mistakes and ensure we memorialize our lessons.*
- 2. The unusual amount of illnesses and deaths for short term exposures by their pets must be investigated and evaluated. Historically, man has observed and used animals to identify hazardous environments, e.g., miners used canaries or other birds to identify hazardous atmospheres. The many illnesses and deaths*

² <http://www.epa.gov/risk/health-risk.htm>. "Human Health Risk Assessment", EPA

of the pets can be a significant indicator and should be treated seriously and scientifically. The DOH and the contractors cannot continue to ignore the difference between acute and chronic exposures.

- 3. If the DOH is “approving” these plans or risk assessments or other documents without true characterization and assessment of human health risks then the DOH should cease and desist. The perception of the DOH approval and allowing unsafe conditions that are based on the manipulation of numbers to benefit funding entities without accurate and confident scientific data reflecting true characterization and human health exposure should be clarified to the residents and the general public.*
- 4. Development of sampling plans to monitor real human pathways. Specifically, air sampling in and around houses; wipe samples in and around houses; and strict monitoring of all maintenance, repair and renovation work to ensure these families are protected and accurate data collected. The collected data must be used to continuously analyze and to trend the impacts to human health.*
- 5. Be strict, consistent and fair with the contractors to ensure they actually follow the safe protocols to protect the military families and comply with directions from the DOH. Enforcement and monitoring are tools to protect the people.*
- 6. Development and implementation of effective, meaningful and OBJECTIVE oversight committees to ensure proper procedures, protocols, and protective mitigation measures. Transparency must be an integral part of all the efforts.*

The perception that the HDOH can and has approved the alternate EALs is taken as an approval by the private sector that they can construct residential homes on land containing elevated levels of hazardous substances. The HDOH seems to require that specific actions to protect the public are included in this approval, e.g., additional monitoring, education and awareness, etc. The basis for this allowance is a complicated and technical repetition of information from EPA and others that simply mean these EALs will result in an increased risk of cancer and non-cancer related illnesses. Once the document was approved in 2007 there is no other information or actions to confirm the basis of these alternate EALs are in fact safe. No one is responsible, liable or accountable.

The consequence of the above is to wait until complaints are heard. In order for this to happen the military families must experience a consequence, i.e., they must be sick, or their children are ill, or their pets die. They must complain to everyone and they must be loud enough to be heard and they must ensure they protect themselves from reprisal and discrimination. The burden of bringing attention to the plight of the poorly developed HDOH approved plan now belongs to them. Once this occurs, the HDOH and the private contractors turn the tables and inform them that they must “prove” that their illnesses or deaths have occurred because of the unsafe housing. And that it is

their responsibility to complain. This is backwards! The initial action to attempt to use the alternate EALs should have guaranteed the occupants that it would be safe based on current scientific studies and actual site specific data. None of which are available. Using the military families as the guinea pigs in this experiment is the consequence of the HDOH alternate EALs.

Immediate and proactive actions must be initiated and put into effect as soon as possible for the many military family housing projects built in the last twenty (20) years that allowed increased health and exposure risks to families to be ignored. We ask that you protect the health of our military families especially the unborn, newborn and children. A sense of urgency is needed because each day actions are not taken is another day a mother and a child will have to visit the emergency room with unexplained illnesses.

Thank You,

Walter Chun

Walter Chun, PhD

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